

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

CLAUDE CHADWICK, #1462425,

Plaintiff,

V.

SKYVIEW UNIT,

Defendant.

Case No. 6:21-cv-397-JDK-KNM

**ORDER ADOPTING THE REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Plaintiff Claude Chadwick, a Texas Department of Criminal Justice inmate proceeding pro se, submitted a letter that the Court construed to be a civil rights lawsuit pursuant to 42 U.S.C. § 1983. The case was referred to United States Magistrate Judge K. Nicole Mitchell for findings of fact, conclusions of law, and recommendations for disposition.

Subsequent communications from Plaintiff, including his pending “Motion to Close Case” (Docket No. 4), demonstrate that Plaintiff did not intend to file a lawsuit with his original letter. On October 20, 2021, Judge Mitchell issued a Report recommending that the Court dismiss the case without prejudice on the basis of Plaintiff’s voluntary dismissal. Docket No. 5. Plaintiff received a copy of the Report on October 26, 2021, and has not objected. Docket No. 9. His only submission dated after he received the Report refers to this as a “civilly fraudulent case” and does not mention the Report. Docket No. 10.

This Court reviews the findings and conclusions of the Magistrate Judge de novo only if a party objects within fourteen days of service of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass’n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

Here, Plaintiff did not object in the prescribed period. The Court therefore reviews the Magistrate Judge’s findings for clear error or abuse of discretion and reviews his legal conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert. denied*, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge’s Report are filed, the standard of review is “clearly erroneous, abuse of discretion and contrary to law”).

Federal Rule of Civil Procedure 41(a)(1)(A) permits plaintiffs to dismiss their actions without leave of court by either filing a notice of dismissal prior to service of a responsive pleading or by filing a stipulation of dismissal signed by all parties. Plaintiff’s “Motion to Close Case” meets that requirement.


Having reviewed the Magistrate Judge’s Report and the record in this case, the Court finds no clear error or abuse of discretion and no conclusions contrary to law. Accordingly, the Court hereby **ADOPTS** the Report and Recommendation of the United States Magistrate Judge (Docket No. 5) as the findings of this Court. It is

therefore **ORDERED** that this case is **DISMISSED** without prejudice at Plaintiff's request.

All pending motions are **DENIED** as moot.

The Clerk of Court is instructed to close this case.

So **ORDERED** and **SIGNED** this **27th** day of **December, 2021**.



JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE